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SUBJECT: Ambassadors Call On the Electoral Commission

REF: NAIROBI 4429

¶1. (SBU) Summary & Introduction: Electoral Commission of Kenya (ECK) Chairman Samuel Kivuitu, Vice-Chair Kihara Muttu, and four staff members met with Chiefs of Missions from the UK, the United States, Canada, Sweden, and the European Commission on 8 November to review preparations for the 27 December general elections. The discussion touched on issues of electoral violence, campaign abuses and use of state resources, impunity, balance of media coverage - particularly state media, inspection of the voter registry, and Election Day logistical arrangements. The US Mission has led those diplomatic missions donating to the electoral effort in a coordinated campaign to encourage ECK Chairman Kivuitu's re-appointment. End Summary & Introduction.

¶2. (SBU) The ECK's leading concern continues to be violence, noting that since the 2005 referendum, ethnic tensions had substantially increased. The ECK's preparedness and ability to respond still seems weak. The Chair noted that the previous Vice-Chair, whose term was not renewed, led their internal Committee on this issue, which has not been reconstituted. He then noted that Committee is regularly meeting with a counterpart Police Committee. According to the Chair, the Police say they are prepared, but he is not convinced. He further stated that the ECK works through local peace committees and this year the plan is for those committees to be more active. He admitted that while gender violence is of particular concern, there are no particular or additional plans to address it. The Vice-Chair noted that given its importance, a senior female police officer has joined the police committee. The Chair also noted that they are now receiving intelligence reports of "hot spots" on the ground and they are working with the police to develop proactive approaches in such areas.

¶3. (SBU) The ECK Chair welcomed Ambassador Ranneberger's suggestion to have candidates sign the Electoral Code of Conduct in a public ceremony and stated that he would work on this immediately after he receives the Presidential Nomination papers.

¶4. (SBU) In addressing allegations of rigging, particularly manipulation of the voter registry and purchasing of voters cards, the Chair noted that more specific information is needed for successful investigations. After noting that he read the formal complaint of presidential aspirant Raila Odinga, he was fairly dismissive of it and said it lacked specifics that could be investigated, and that the individual named in the complaint was not an ECK employee. However, he accepted that purchasing of voter cards was a continuing problem in the country. It is a problem the ECK was keen to address, but more information was needed for them to do that. He referenced a complaint where a member of the ODM leadership, Member of Parliament Najib Balala brought

400 voter ID cards to the District Electoral Commissioner (DEC) on the Coast. They then investigated; it resulted in the arrest of one woman, who is now assisting police in investigations. He further noted, that the ECK will still provide duplicate ID cards to individuals who sell these cards, to deter such actions and allow people to vote.

15. (U) The Chair mentioned two safeguards recently put in place:

- Regulatory changes now provide for criminal sanctions against Returning Officers and Presiding Officers who report total elections results at polling stations that exceed the number of registered voters for the stations. Further, the ECK has the authority to nullify the results of such polling stations.

- Returning Officers have been rotated so they no longer serve in their home areas.

16. (U) At the end of the closed meeting, press was invited in. In very brief remarks the Chair emphasized that the Chiefs of Mission visiting the ECK represented true friends of Kenya and countries that were proving morale and finance support for the elections.

17. (SBU) Comment: The US Mission has led those diplomatic missions providing assistance for the electoral effort in a coordinated campaign to encourage ECK Chairman Kivuitu's re-appointment. Given the high number of inexperienced, newly appointed commissioners, it is crucial that experienced, competent and committed Kivuitu remain at the helm of ECK.

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